

REMARKS

Claims 1-11, 13-20, and 22-29 are pending in the application. Claims 12 and 20 have been cancelled. Claims 1, 4, 7, 9, 13-17, 20, 22-24, and 29 have been amended.

Objection to the claims

The claims were objected to for reciting an abbreviation "PKR." Applicants have amended claims 1, 4, 7, 9, 13-17, 20, 22-24, and 29 to clarify that this abbreviation means "RNA-activated protein kinase (PKR)" and to provide appropriate antecedent basis. Applicants respectfully request that the objection be withdrawn

Rejection for obviousness type double patenting

Claims 1-11, 13, 14, and 17-29 were rejected as allegedly obvious over claims 1-11 of US Patent 6,326,151 and claims 1-8 of US Patent 6,030,785. Applicants herein submit a terminal disclaimer of the term of any patent granted on the instant application over US Patent 6,326,151 and US Patent 6,030,785. Applicants also authorize payment of the required fee to process the terminal disclaimer, by charging to Deposit Account 20-1430. Applicants therefore respectfully request that the rejection be withdrawn.

In submitting this terminal disclaimer, Applicants also respectfully remind the Examiner of the fact that terminal disclaimers are not an admission of the validity of a rejection. As clearly stated in MPEP 804.02, "the filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. [In] *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991) ...the court indicated that the 'filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.'"

Rejection under 35 U.S.C. § 112, first paragraph: enablement

Claim 12 was rejected as allegedly lacking enablement. To expedite prosecution, claim 12 has been cancelled. Applicants respectfully request that the rejection be withdrawn.

Rejection under 35 U.S.C. § 112, second paragraph

Claims 9-11 were rejected as allegedly indefinite for failing to set forth any sets involved in the claimed method. Applicants have amended claim 9 to recite appropriate steps to carry out the claimed method. Applicants respectfully request that the rejection be withdrawn. As claim 9 now recited appropriate steps for use of the yeast cell, Applicants also request that the rejection under 35 U.S.C. § 101 be withdrawn.

Claims 15-17 were rejected as allegedly indefinite in the recitation of "wherein said difference in said property is determined by . . ." Applicants have amended the claims to clarify that the level in the presence of the candidate agent is determined and then compared with the level in the absence of the candidate agent. Applicants respectfully request that the rejection be withdrawn.

Claim 21 was rejected as indefinite for reciting that the PKR is selected from the group consisting of "p68 . . . and e1F-kinase. Applicants acknowledge that the terms recited in the claim are alternative names for PKR (*see, e.g.*, specification, page 7, last paragraph). Accordingly, the claim has been cancelled. Applicants respectfully request that the rejection be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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